

Amendments to the Drawings:

Please add to the drawings the attached New Sheet 3 of 3 containing Figures 7 and 8 depicting alternative embodiments of a pouring device according to the present invention in which the radial spacing of a strand from a spout thereof is 90° and 120°, respectively.

Attachment: New Sheet (1)

REMARKS/ARGUMENTS

Applicant notes with thanks and appreciation the Examiner's indication of allowable subject matter in claims 26 and 27. Regarding the rejections of claims 1-25, Applicant respectfully requests reconsideration and continued examination of this application in view of the above amendments and the following remarks.

1. Status of the Claims

Claims 1-3, 5, 7, and 9-30 are pending in this application.

Claims 4, 6 and 8 are hereby canceled.

Claims 1, 18 and 20 have been amended to clarify the structure and function of the recited visual indicator as being for identifying the angular location of the air passageway relative to the visual indicator. Support for this amendment is found in the original specification at, for example, paragraph 34, which states that the visual indicator is preferably spaced at least 120°, and more preferably 180°, from the air passageway.

Claim 14 has been amended to further clarify the structure of the recited cap as including a cylindrical longitudinal extent insertable in sealing engagement with the interior of the second end of the cylindrical body. Support for this amendment is found in the original specification in, for example, Figures 1, 2, 5 and 6.

New claim 28 has been added to further clarify the structure of the recited strand. Support for this amendment is found in the original specification in, for example, Figure 4 and paragraph 40 of the published application.

New claim 29 has been added to clarify still further the structure of the recited strand. Support for this amendment is found in the original specification in, for example, Figure 4 and paragraph 40.

New claim 30 has been added to clarify still further the structure of the recited cap. Support for this amendment is found in the original specification in, for example, Figures 1, 2 and 4.

No new matter has been added.

2. Objection to Drawings Under 37 CFR § 1.83(a)

Radial strand spacings of 90 and 120 degrees from the spout, respectively, are shown in Figures 7 and 8 of the attached New Sheet 3 of 3. Accordingly, Applicant respectfully submits that the objection to the drawings has been overcome.

3. Claim Rejections Under 35 U.S.C. § 112 Second Paragraph

Claims 14-17 were rejected under 35 U.S.C. § 112, second paragraph, referring to the attached cap recited in line 2 of claim 14 as a double inclusion of the cap recited in line 24 of claim 1. Applicant believes that the reinstatement of this objection was probably inadvertent, as the Examiner already withdrew this rejection in the previous Office Action dated February 27, 2009, in view of Applicant's arguments. Applicant respectfully submits that this rejection was overcome by Applicant's arguments submitted in Amendment F dated December 2, 2008, as the Examiner previously noted.

4. Claim Rejections Under 35 U.S.C. § 103(a)

a) 103(a) Rejections over Jiang in view of Pham

Claims 1-8 and 10-25 have been rejected under 35 U.S.C. § 103(a) as obvious over U.S. Pat. No. 4,637,530 to Jiang ("Jiang") in view of U.S. Pat. No. 5,228,603 to Pham et al. ("Pham"). Applicant respectfully traverses this rejection.

The pouring device of the present invention includes a combination of aspects which is not taught or suggested by either Jiang or Pham, whether they are considered alone or in combination. For example, neither Jiang nor Pham discloses or provides a reason for a pouring device with a filter including a pour opening that comprises a plurality of apertures substantially uniformly disposed across a substantially circular cross section of a cylindrical body portion of the pouring device. Nor does either Jiang or Pham teach a pouring device with an air passageway integrally formed with and at least coextensive with a filter in a longitudinal direction, the air passageway being substantially encircled by uniformly disposed pouring apertures in the filter. To the contrary, Pham only

discloses a semi-circular screen 76 extending across only a part of a cross section of a cylindrical body, see Fig. 4B of Pham. Moreover, Pham does not even disclose an air passageway and a filter in combination in the same pouring device; rather, the device of Pham Figs. 3A-3B includes only an air passageway but no filter, while the device of Pham Figs. 4A-4B includes a mesh screen but no air passageway. The device disclosed in Jiang, on the other hand, altogether lacks a filter; see Figs. 4B-4C of Jiang. Neither Pham nor Jiang discloses an air passageway substantially encircled by the apertures of a pour opening; to the contrary, the pour openings of both Pham and Jiang are disposed entirely to one side of the air passageway. See Jiang Fig. 3; Pham Fig. 3A.

In addition, neither Pham nor Jiang discloses a pouring device comprising a cylindrical body extending above and surrounding an air passageway and a pour opening such that the air passageway and pour opening may be sealed to the atmosphere by sealing engagement of a cylindrical longitudinal extent of a cap inserted in sealing engagement with the interior of an end of the cylindrical body, as recited in amended claims 1, 18 and 20. Such sealing of the device of Jiang by a cylindrical longitudinal extent of a cap would be impossible, as plate 5a, which defines a part of two adjacent pouring spaces at its two sides, extends above the cylindrical portion of the device and would thus obstruct and prevent the insertion of a cylindrical cap into the device so as to seal the pouring spaces. See, e.g., Jiang Fig. 2. The device of Pham also could not be sealed by the insertion of a cylindrical longitudinal extent; instead, the cap of Pham requires a complex, irregular profile, apparently to avoid impinging various obstructions in the interior of the top end of the pouring device. See, e.g., Pham Figs. 3A-4B.

Moreover, Pham wholly fails to disclose or suggest a pouring device with a cap attached by a flexible elongated strand, but rather only by a hinge. See, e.g., Pham Figs. 1 - 4B. New claim 28 further clarifies this distinction, reciting that the strand is attached at one end to a cylindrical body and at another end to a cap such that the two ends are spaced apart from each other at a distance of about the height of the upper portion when the cap is inserted in the cylindrical body, and when liquid is poured from a bottle in which the device is inserted, the strand is of sufficient thickness and rigidity to prevent the strand and cap from hanging

in the path where liquid is being poured from the bottle. This construction provides significant advantages, permitting a strand according to the invention to be of sufficient thickness to permit repeated openings and closings of the device without breakage, and preferably to be circular in cross section, unlike the hinges of Pham which must be thin and flat, and must endure high, locally concentrated stresses associated with sharp bending. In contrast, the bending stresses in the strand of the invention are distributed along the length of the strand. This distribution of stresses permits the strand to be of sufficient rigidity to prevent the cap and strand from hanging in the pouring path during pouring, without subjecting the strand to unduly high stress concentrations when the cap is closed.

Finally, neither Jiang nor Pham discloses or suggests a spout having an upper rim that lies at least substantially in a plane, such that the spout is adapted to be closed to the atmosphere by a generally planar tab included in a cap. Rather, the device of Pham wholly lacks a spout, while the pouring spout 2 of Jiang has a rim with a curved profile, which, moreover, is overlapped by a tongue member 6 that would tend to obstruct a tab of any shape from closing spout 2 to the atmosphere. Thus, Jiang fails to disclose or suggest a significant sanitary advantage of the device of the invention.

For at least the foregoing reasons, none of the pending claims is anticipated or rendered obvious by Jiang and/or Pham, whether considered alone or in combination.

b) 103(a) rejection over Jiang in view of Pham and further in view of Baxter

Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Jiang in view of Pham and further in view of U.S. Patent No. 4,128,189 to Baxter ("Baxter"). Applicant respectfully traverses this rejection.

Baxter does not supply the deficiencies of Jiang and Pham and is only cited as teaching a harmonious color style in a pouring device. Moreover, Applicant respectfully submits that Baxter column 3, lines 50-53 fails to disclose a visual indicator disposed on an outer surface of an upper portion of a cylindrical body for identifying the relative angular location of an air passageway with


respect to the visual indicator, wherein the visual indicator comprises a marking having a color different from the color of said cylindrical body, as recited in amended claim 1. Rather, Baxter merely discloses that the insert 50, cover 70 and cap 74 can be variously colored in order to harmonize with the color style of a container. Insert 50, cover 70 and cap 74 are all members that extend 360° around the axis of the disclosed device, see Figure 3. In other words, the coloring of each of insert 50, cover 70 and cap 74 has no particular angular location, and thus one cannot possibly identify the angular location of an air passageway with respect to the coloring of any of them. Therefore, variously coloring insert 50, cover 70 and cap 74 would not identify the relative angular location of an air passageway extending in a longitudinal direction along the internal periphery of a cylindrical body. Thus, the cited passage does not disclose or provide a reason for a marking according to claim 9.

For at least the foregoing reasons, claim 9 is not anticipated or rendered obvious by Jiang, Pham and/or Baxter, whether the references are considered alone or in combination.

CONCLUSION

In view of the foregoing, no single reference or combination of the cited references teaches, suggests or otherwise renders obvious, whether alone or in combination, the subject matter of claims 1-3, 5, 7, and 9-30. Applicant respectfully submits that all of the rejections have thus been overcome and claims 1-3, 5, 7, and 9-30, as amended, are in condition for allowance. Accordingly, an early indication of allowance is solicited.

Respectfully submitted,

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Appendix:

Attachments: Replacement Sheet
 Annotated Sheet Showing Changes